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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

SACRAMENTO SUBURBAN WATER
DISTRICT,

Plaintiff,

v.

THE 3M COMPANY (F/K/A MINNESOTA
MINING AND MANUFACTURING CO.),
E. I. DU PONT DE NEMOURS AND
COMPANY, THE CHEMOURS COMPANY,
and DOES 1 through 10,

Defendants.

Hon. Kimberly J. Mueller

Case No. 2:22-cv-01005-CKD

**STIPULATION AND ORDER
REGARDING SCOPE OF PLAINTIFF'S
CLAIMS, SPECIFIC PERSONAL
JURISDICTION OVER 3M COMPANY,
AND TRANSFER OF THIS ACTION TO
THE *IN RE AFFF* MULTIDISTRICT
LITIGATION**

1 Plaintiff Sacramento Suburban Water District (“Plaintiff”), Defendant 3M Company
2 (“3M”), and Defendants E. I. DuPont de Nemours and Company and the Chemours Company (the
3 “EID/CC Defendants”) hereby stipulate as follows:

4 WHEREAS, on June 10, 2022, Plaintiff filed this action against 3M and certain other
5 defendants and alleged in its complaint (ECF No. 1, the “Complaint”) that its drinking water supply
6 wells are contaminated with certain per- and poly-fluoroalkyl substances (“PFAS”), including, but
7 not limited to, perfluorooctanoic acid (PFOA) and/or perfluorooctane sulfonic acid (PFOS), from
8 products made, marketed, or used by Defendants;

9 WHEREAS, on August 15, 2022, 3M filed a motion to dismiss Plaintiff’s claims, including
10 on the ground that the allegations in the Complaint are insufficient to establish personal jurisdiction
11 over 3M;

12 WHEREAS, Plaintiff opposed the motion to dismiss, and as an alternative to granting the
13 motion, requested that the Court grant jurisdictional discovery;

14 WHEREAS, on November 10, 2022, the Court issued an order denying the motion to
15 dismiss without prejudice and granting Plaintiff’s request for jurisdictional discovery;

16 WHEREAS, on November 18, 2022, Plaintiff served discovery on Defendants, and
17 Plaintiff’s discovery requests sought documents, information, and testimony regarding “PFAS
18 Products,” whose definition included aqueous film forming foam (“AFFF”);

19 WHEREAS, the Parties engaged in an initial conferral regarding the jurisdictional
20 discovery that Plaintiff served, and during this conferral, 3M conveyed to Plaintiff that 3M had
21 sold or otherwise transferred AFFF to the McClellan Air Force Base in Sacramento County,
22 California, and that 3M was prepared to withdraw its objection to specific personal jurisdiction if
23 Plaintiff’s claims are now intended to encompass PFAS contamination allegedly resulting from
24 the use of AFFF;

25 WHEREAS, based upon 3M’s representation regarding sale of its AFFF, Plaintiff has
26 agreed that the claims in the Complaint are now intended to encompass PFAS contamination
27 allegedly resulting from the use of AFFF, and Plaintiff reserves all rights regarding future fact
28

1 discovery and expert discovery related to PFAS Products, including but not limited to AFFF, that
2 are or may be the sources of contamination in its wells;

3 WHEREAS, 3M now intends to seek to have the Judicial Panel on Multidistrict Litigation
4 transfer this action to the U.S. District Court for the District of South Carolina as a tag-along action
5 for inclusion in the *In re Aqueous Film-Forming Foams Products Liability Litigation*, MDL No.
6 2873 (the “AFFF MDL”);

7 WHEREAS, based on the foregoing conferral and agreements, Plaintiff and the EID/CC
8 Defendants will not oppose transfer of this action to the AFFF MDL;

9 WHEREAS, the Parties believe based on prior transfer orders and experience in the AFFF
10 MDL that the Judicial Panel on Multidistrict Litigation will transfer this action to the AFFF MDL
11 following the filing of a notice of potential tag-along action and with reference to this stipulation;

12 WHEREAS, the transfer of this action to the AFFF MDL will at least temporarily moot
13 jurisdictional discovery involving the EID/CC Defendants, and the Parties agree that proceeding
14 with jurisdictional discovery in this District while the case is pending transfer to the AFFF MDL
15 would be an inefficient use of the Court’s and the Parties’ time and resources;

16 WHEREAS, the Parties reserve all rights regarding discovery of relevant PFAS Products
17 and ultimate proof of source attribution, including but not limited to potential amendment of
18 pleadings and/or addition of third-party defendants;

19 WHEREAS, on August 15, 2022, the EID/CC Defendants filed a separate motion to
20 dismiss Plaintiff’s claims under Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction, which
21 motion was denied without prejudice pending the conduct of jurisdictional discovery (Dkt. 44);

22 WHEREAS, the EID/CC Defendants reserve all rights to assert, at a procedurally
23 appropriate time, the defense of lack of personal jurisdiction;

24 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED that:

- 25 1. Based on information now presently known to Plaintiff and 3M’s representations
26 in conferral, Plaintiff’s claims against 3M in this action are now intended to
27 encompass alleged PFAS contamination of Plaintiff’s drinking water supply wells
28 from the use of AFFF. Entry of this stipulation does not waive any of Plaintiff’s

rights regarding future fact or expert discovery related to PFAS Products, including but not limited to AFFF, that are or may be the sources of contamination in its wells.

2. Based upon Plaintiff's confirmation that its claims against 3M in this case are now intended to encompass alleged PFAS contamination from the use of AFFF, 3M withdraws its objection to Plaintiff's assertion of specific personal jurisdiction over 3M in this case and withdraws 3M's pending motion to dismiss to the extent that it seeks dismissal under Federal Rule of Civil Procedure 12(b)(2). 3M does not withdraw its pending motion to dismiss to the extent that it seeks dismissal under Federal Rule of Civil Procedure 12(b)(6).
3. Based upon 3M's withdrawal of its objection to Plaintiff's assertion of specific personal jurisdiction in this case and its pending motion to dismiss to the extent that it seeks dismissal under Federal Rule of Civil Procedure 12(b)(2), Plaintiff's jurisdictional discovery requests to 3M are now moot and deemed withdrawn.
4. Based upon 3M's representations to date and the Parties' conferral, Plaintiff and the EID/CC Defendants will not oppose transfer of this action to the AFFF MDL.
5. The Parties agree that a stay of all jurisdictional discovery deadlines and obligations pending transfer to the AFFF MDL is appropriate.
6. The EID/CC Defendants retain all rights to challenge the exercise of personal jurisdiction over them in this action.

Dated: December 16, 2022

By: /s/ Stephanie D. Biehl
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Dated: December 16, 2022

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Attorneys for Defendants

E. I. du Pont de Nemours and Company and

The Chemours Company

I hereby attest that all of the signatories hereto have consented to the filing of this document.

By: /s/ Daniel Queen

ORDER

The Court, having reviewed the Parties' Joint Stipulation and good cause appearing,
HEREBY ORDERS that:

1. Defendant 3M's objection to Plaintiff's assertion of specific personal jurisdiction over 3M in this case, and 3M's pending motion to dismiss to the extent that it seeks dismissal under Federal Rule of Civil Procedure 12(b)(2), are now moot and deemed withdrawn.
2. Plaintiff's jurisdictional discovery requests to 3M are now moot and deemed withdrawn.
3. All parties' jurisdictional discovery deadlines and obligations are stayed, pending the resolution of the parties' motion to transfer this litigation to the AFFF MDL. The stay is effective for six (6) months. A Joint Status Report on the anticipated motion and transfer must be filed no later than six (6) months from the date of this order, or within seven (7) days of a transfer order issuing, whichever is earlier.

IT IS SO ORDERED.

DATED: December 22, 2022.


CHIEF UNITED STATES DISTRICT JUDGE